Supreme Court of the United States

OCTOBER TERM, 1941

No.

J. B. SPENCER, ET ALS.

versus

LUCKENBACH GULF STEAMSHIP CO.
AND
SWAYNE & HOYT, LTD.

PETITION FOR WRITS OF CERTIORARI AND REVIEW TO THE SUPREME COURT OF LOUISIANA AND BRIEFS IN SUPPORT THEREOF.

A.

On the 12 day of July, 1937, the petitioner together with approximately one hundred (100) members of Local 231, International Longshoremen's Association filed a suit against the Luckenbach Gulf Steam-

ship Company, Inc., and the Swayne & Hoyt, Ltd., for breach of contract.

The petitioners are members of Local 231, International Longshoremen's Association, which is a labor union, an unincorporated voluntary association and which labor union had a contract for the loading, and unloading of ships engaged in foreign and domestic commerce in the Port of New Orleans.

The cause of action set up and the complaint was that the said companies had, without legal cause breached their labor contract and had locked out members of this union, from further work on the piers on the riverfront in New Orleans.

The petitioners sought damages for having been locked out, and for the breach of contract made between them as a Union, and the fact that the said breach was made deliberately, and with malice by the said companies, and that the loss was the loss to the association of dues amounting to approximately TWENTY-FIVE HUNDRED DOLLARS ($2500.00), and the loss of earnings to the petitioners, amounting to approximately THIRTY DOLLARS ($30.00) per week, per man.

The defendant corporations were dismissed from this suit by the Supreme Court of Louisiana on a plea of **"no right or cause of action"**. This plea had been overruled in the District Court. The plea of **"no right or cause of action"** was based on the opinion by the Supreme Court of Louisiana that a labor union as such, and individual members could not sue for loss incurred by them,

because of the breach of contract between them and the offending steamship companies.

B.

The decision of the Supreme Court deprived the petitioners of their right to contract as individuals, and as members of a labor union, and also deprived them of their right to sue for the breach of said contract. The decision thereby impairs the obligation of a contract, in violation of Sec. 10, Art. 1 of the Constitution of the United States, and it deprives them of "due process of law and of equal protection of the law".

The case further involves the right of members of labor unions engaged in work affecting interstate and foreign commerce to sue where they have been locked out and where the contract between them, and their employers, has been deliberately breached, without cause by their employers.

The case further involves the right of labor unions to enforce contracts made under the jurisdiction of the United States Department of Labor, Mediation Board, under which this contract was made.

This case was decided by the Supreme Court of Louisiana on the 31st day of March, 1941, and a rehearing was asked for and the rehearing was refused on April 28th, 1941. That Petitioners have their remedy in the Louisiana Courts.

C.

Petitioners now allege that the judgment of the Supreme Court of Louisiana is erroneous, particularly for

the following reasons, all of which are of record and were raised in the District Court by the pleadings therein, to-wit:

A. That the said Court, in depriving your petitioners of the right to sue for breach of contract, deprived them of a right, which is guaranteed to all other citizens of the United States and to citizens of Louisiana, and is in violation of the 14th Amendment to the Constitution of the United States in that it deprives them of due process of law and of equal protection of the law.

B. Your petitioners further say that this contract is affected with and pertains entirely to interstate and foreign commerce, and is cognizable under the law of the United States. That its breach on the part of the steamship companies was a blow at interstate and foreign commerce and that the subsequent lock out affected seriously the foreign commerce of the Port of New Orleans.

C. That the impairment of the obligation of this contract by the Supreme Court of Louisiana is in violation of the United States Constitution, and particularly in violation of Amendment 14 of said Constitution in that it deprives petitioners of the equal protection of the law.

D. This case is in direct conflict with all of the cases in Louisiana, wherein the right to sue for breach of contract is maintained, and is in direct conflict with the Constitution of Louisiana, which guarantees under **Article 1, Section 6:**

> "All courts shall be open, and every person for injury done him in his rights, lands, goods, person or reputation shall have adequate

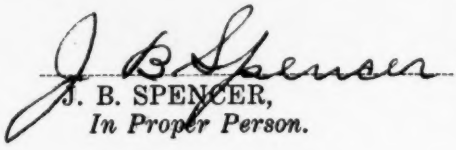
remedy by due process of law and justice administered without denial, partiality or unreasonable delay."

Petitioners have attempted to secure adequate remedy for breach of contract and the Supreme Court of Louisiana has held that they have no right to file this suit, **"no right of action"**. This decision is in direct conflict with the Constitution of the United States and particularly Article 1—Sec. 10 thereof; and with the 14th Amendment, depriving members of Labor Unions of "due process of law."

It not only is in conflict with the Constitutions of both the United States and Louisiana, but it is in direct conflict with the *Dartmouth College* case in that it allows the impairment of the obligation of a contract by a court of the state, and deprives petitioners of vested rights which they had to enforce this contract.

WHEREFORE, because of the immediate importance of the Constitutional questions involved, petitioner respectfully prays that writs of certiorari or review may issue out, and under the seal of this Honorable Court to the Supreme Court of Louisiana commanding that Court to certify and send to this Court for review and determination, on a day therein to be named, a full and complete transcript of the record and all proceedings in the matter, "*J. B. Spencer, et als. vs. Luckenbach Gulf Steamship Company, Inc., et als.,*" No. 35-702 of the Supreme Court of Louisiana, and that the said decree and judgment of the Supreme Court of Louisiana may be reversed

by this Court and that your petitioners may have such relief in the premises as this Court may deem just and fit.



J. B. SPENCER,
In Proper Person.

RICHARD DOWLING,
Of Counsel.

Supreme Court of the United States

No.

OCTOBER TERM, 1941

J. B. SPENCER, ET ALS.

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LUCKENBACH GULF STEAMSHIP CO.
AND
SWAYNE & HOYT, LTD.

BRIEF IN SUPPORT OF PETITION FOR WRITS OF CERTIORARI AND REVIEW ON BEHALF OF PETITIONER.

It is a fundamental right that all citizens should have the right to contract and that for the breach of this contract they should be awarded damages.

The law of Louisiana contains the following:

ARTICLE 1934, REVISED CIVIL CODE:

> "Where the object of the contract is anything but the payment of money, damages due to the creditor for breach or the amount of loss he has sustained and the profit of which he has been deprived, under the following exceptions and modifications:
>
> 2. When the inexecution of a contract had proceeded from fraud or bad faith, the debtor shall not only be liable to such damages as were, or might have been foreseen at the time of the making of the contract, but also to such as are the immediate and direct consequence of the breach of that contract; but even where there is fraud, the damages cannot exceed this."

The case at bar is a suit by a labor union, and also by the individual members thereof for damages growing out of the breach of a contract where two steamship companies without just cause, deliberately breached a contract which had been entered into between them and the petitioners. This contract was made under the auspices and guidance of the United States Labor Department and its Mediation Board.

The decision of the Supreme Court of Louisiana deprived these litigants of the rights to the benefit of the law above cited and is not only in violation of the State Constitution of Louisiana, Article 1, Section 6, which reads, as follows:

> "All courts shall be open, and every person for injury done him in his rights, lands, goods, person, or reputation shall have adequate remedy by due process of law and justice administered without denial, partiality or unreasonable delay."

But is also in violation of the Federal Constitution and particularly Article 1, Section 10, which among other things states the following:

> " * * * No state shall * * * pass any bill of attainder *expost facto* law, or law impairing the obligation of contracts" * * *.

It is also in violation of Amendment 14 of the Constitution of the United States, which guarantees equal protection of the laws to all citizens and due process of law to all citizens.

We can go back for many years to the famous *Dartmouth College* case (*Dartmouth College vs. Woodward*, 4 Wheat. 518) and find that this principle has been upheld through the years.

We cite the following:

> "All laws of whatever nature, which impair the obligation of contracts fall within the constitutional prohibitions". *Sturges v. Crownshield*, 4 Wheat. 122.
>
> * * * * *
>
> "The obligation of a contract, within the meaning of the Constitutional provisions against the impairment depends upon its terms and the means which the law in existence at the time

affords for its enforcement". *Murray v. Charleston*, 96 U. S. 432.

. . . . . .

"The obligation of a contract is the law which binds the parties to perform their agreement." *Home Building & Loan Association vs. Blaisdell*, 290 U. S. 398, 54 Sup. Ct. 231, 88 Alr. 1481.

. . . . . .

COURTS

"A contract made valid by state laws as expounded by its courts cannot be impaired by any subsequent legislation, or decisions of its courts. *Gelpke v. Dubuque*, 1 Wall—175, 68 U. S. 175, also 70 U. S. 294.

"A contract valid when made cannot be impaired by an act of the legislature or by a court decision. *Chicago v. Sheldon*, 9 Wall. (76 U. S.) 50-19 Law Ed. 594.

We submit the Writ should be granted.

J. B. Spencer

J. B. SPENCER,
In Proper Person.

R. A. DOWLING,
Of Counsel.

FILED
OCT 23 1941
CHARLES ELMORE CROPLEY
CLERK

No. 554

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

J. B. SPENCER, PRESIDENT, ETC., ET AL.

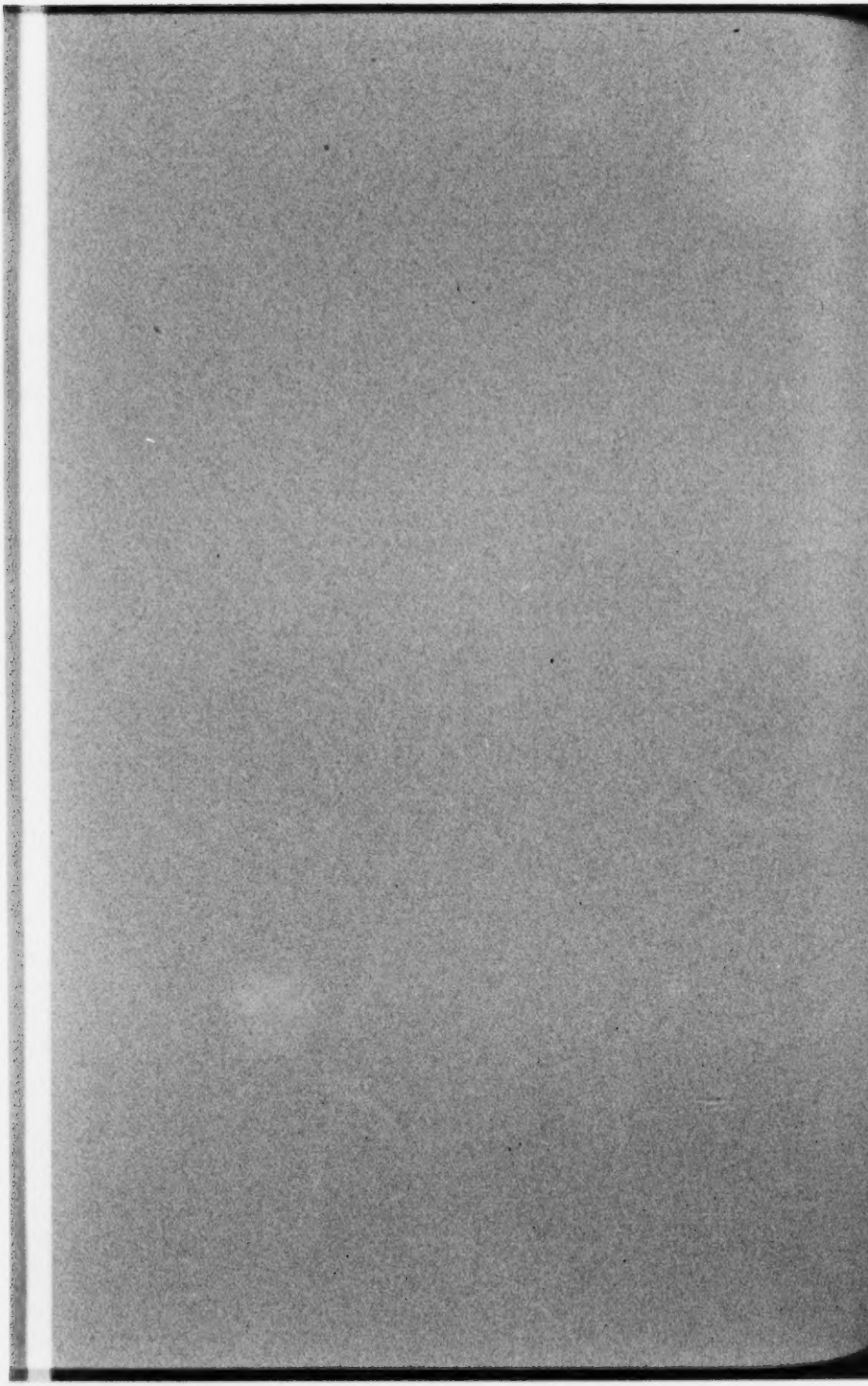
versus

LUCKENBACH GULF STEAMSHIP COMPANY, INC., ET AL.

MOTION TO FILE NARRATIVE FORM OF TESTIMONY IN LIEU OF QUESTIONS AND ANSWERS.

J. B. SPENCER,
In Proper Person.

SENDER PRINTING, 607 CHARTRES ST., N. O., LA.



No. 554

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J. B. SPENCER, PRESIDENT, ETC., ET AL.

versus

LUCKENBACH GULF STEAMSHIP COMPANY, INC., ET AL.

MOTION TO FILE NARRATIVE FORM OF TESTIMONY IN LIEU OF QUESTIONS AND ANSWERS.

I.

On motion of J. B. SPENCER, in proper person, and on suggesting to this Honorable Court, that he has not been able to obtain a stipulation from opposing counsel that a narrative form of the testimony be substituted, for the question and answer form, in the printing of the record

for the application for a writ of certiorari, and for the further purpose of saving unnecessary printing bills.

II.

On further suggesting to this Honorable Court that because counsel opposing this application for certiorari, have refused to stipulate as to the narrative form of said testimony, that mover has submitted to this Court, narrative form of the said testimony certified to by the Clerk of the Supreme Court of Louisiana.

III.

That this narrative form should be printed instead of the questions and answers, for the purpose of submitting to this Court question of the application for writ of certiorari, and on further suggesting to this Honorable Court that he desires that this Court order that the narrative form submitted herein, and approved by the Clerk of the Supreme Court of Louisiana be used in lieu of questions and answers in the printed application.

IT IS ORDERED that the applicant for a writ of certiorari to the Supreme Court of Louisiana, J. B. SPENCER, PRESIDENT, ETC., ET ALS., be and he is hereby

granted permission, and the Clerk of this Court is authorized to place in the printed record of the application for a writ of certiorari herein, in lieu of the questions and answers, the narrative form of the testimony, as certified to by the Clerk of the Supreme Court of Louisiana.

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JUSTICE.

I certify that a copy of this motion has been served on opposing counsel.

J B Spencer

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IN PROPER PERSON.